

JS 44C/SDNY  
REV. 5/2010

## CIVIL COVER SHEET

The JS-44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for use of the Clerk of Court for the purpose of initiating the civil docket sheet.

## PLAINTIFFS

Securities Investor Protection Corporation

## DEFENDANTS

Bernard L. Madoff Investment Securities LLC

## ATTORNEYS (FIRM NAME, ADDRESS, AND TELEPHONE NUMBER)

Becker & Poliakoff, LP, 45 Broadway, NY, NY 10006  
212-559-3322, Attorneys for Appellants

## ATTORNEYS (IF KNOWN)

Baker & Hostetler LLP, 45 Rockefeller Plaza, New York,  
NY 10111, Attorneys for TrusteeCAUSE OF ACTION (CITE THE U.S. CIVIL STATUTE UNDER WHICH YOU ARE FILING AND WRITE A BRIEF STATEMENT OF CAUSE)  
(DO NOT CITE JURISDICTIONAL STATUTES UNLESS DIVERSITY)

28 USC 158, appeal of an Order granting sixth interim applications for fees and expenses of Trustee and his counsel

Hon. Judge Daniels, Hon. Judge  
Has this or a similar case been previously filed in SDNY at any time? No? ☐ Yes? ☒ Judge Previously Assigned Batts, Hon. Judge Scheindlin  
1st and 3rd dismissedIf yes, was this case Vol ☐ Invol. ☐ Dismissed. No ☒ Yes ☒ If yes, give date 2nd and 5th pending & Case No. m-47

(PLACE AN [x] IN ONE BOX ONLY)

## NATURE OF SUIT

## ACTIONS UNDER STATUTES

## TORTS

## PERSONAL INJURY

- ☐ 310 AIRPLANE  
☐ 315 AIRPLANE PRODUCT  
LIABILITY  
☐ 320 ASSAULT, LIBEL &  
SLANDER  
☐ 330 FEDERAL  
EMPLOYERS'  
LIABILITY  
☐ 340 MARINE  
☐ 345 MARINE PRODUCT  
LIABILITY  
☐ 350 MOTOR VEHICLE  
☐ 355 MOTOR VEHICLE  
PRODUCT LIABILITY  
☐ 360 OTHER PERSONAL  
INJURY

## PERSONAL INJURY

- ☐ 362 PERSONAL INJURY -  
MED MALPRACTICE  
☐ 365 PERSONAL INJURY  
PRODUCT LIABILITY  
☐ 368 ASBESTOS PERSONAL  
INJURY PRODUCT  
LIABILITY  
☐ 370 OTHER FRAUD  
☐ 371 TRUTH IN LENDING  
☐ 380 OTHER PERSONAL  
PROPERTY DAMAGE  
☐ 385 PROPERTY DAMAGE  
PRODUCT LIABILITY

## PERSONAL PROPERTY

## FORFEITURE/PENALTY

- ☐ 610 AGRICULTURE  
☐ 620 OTHER FOOD &  
DRUG  
☐ 625 DRUG RELATED  
SEIZURE OF  
PROPERTY  
☐ 630 LIQUOR LAWS  
☐ 640 RR & TRUCK  
☐ 650 AIRLINE REGS  
☐ 660 OCCUPATIONAL  
SAFETY/HEALTH  
OTHER

## LABOR

- ☐ 710 FAIR LABOR  
STANDARDS ACT  
☐ 720 LABOR/MGMT  
RELATIONS  
☐ 730 LABOR/MGMT  
REPORTING &  
DISCLOSURE ACT  
☐ 740 RAILWAY LABOR ACT  
☐ 750 OTHER LABOR  
LITIGATION  
☐ 761 EMPL RET INC  
SECURITY ACT

## IMMIGRATION

- ☐ 462 NATURALIZATION  
APPLICATION  
☐ 463 HABEAS CORPUS-  
ALIEN DETAINEE  
☐ 465 OTHER IMMIGRATION  
ACTIONS

## BANKRUPTCY

- ☒ 422 APPEAL  
28 USC 158  
☐ 423 WITHDRAWAL  
28 USC 157

## PROPERTY RIGHTS

- ☐ 820 COPYRIGHTS  
☐ 830 PATENT  
☐ 840 TRADEMARK

## SOCIAL SECURITY

- ☐ 861 HIA (1995ff)  
☐ 862 BLACK LUNG (923)  
☐ 863 DIWC/DIWW (405(g))  
☐ 864 SSID TITLE XVI  
☐ 865 RSI (405(g))

## FEDERAL TAX SUITS

- ☐ 870 TAXES (U.S. Plaintiff or  
Defendant)  
☐ 871 IRS-THIRD PARTY  
26 USC 7608

## OTHER STATUTES

- ☐ 400 STATE  
REAPPORTIONMENT  
☐ 410 ANTITRUST  
☐ 430 BANKS & BANKING  
☐ 450 COMMERCE  
☐ 460 DEPORTATION  
☐ 470 RACKETEER INFLU-  
ENCED & CORRUPT  
ORGANIZATION ACT  
(RICO)  
☐ 480 CONSUMER CREDIT  
☐ 490 CABLE/SATELLITE TV  
☐ 810 SELECTIVE SERVICE  
☐ 850 SECURITIES/  
COMMODITIES/  
EXCHANGE  
☐ 875 CUSTOMER  
CHALLENGE  
12 USC 3410  
☐ 890 OTHER STATUTORY  
ACTIONS  
☐ 891 AGRICULTURAL ACTS  
☐ 892 ECONOMIC  
STABILIZATION ACT  
☐ 893 ENVIRONMENTAL  
MATTERS  
☐ 894 ENERGY  
ALLOCATION ACT  
☐ 895 FREEDOM OF  
INFORMATION ACT  
☐ 900 APPEAL OF FEE  
DETERMINATION  
UNDER EQUAL ACCESS  
TO JUSTICE  
☐ 950 CONSTITUTIONALITY  
OF STATE STATUTES

## ACTIONS UNDER STATUTES

## CIVIL RIGHTS

- ☐ 441 VOTING  
☐ 442 EMPLOYMENT  
☐ 443 HOUSING/  
ACCOMMODATIONS  
☐ 444 WELFARE  
☐ 445 AMERICANS WITH  
DISABILITIES -  
EMPLOYMENT  
☐ 446 AMERICANS WITH  
DISABILITIES -OTHER  
☐ 440 OTHER CIVIL RIGHTS

## PRISONER PETITIONS

- ☐ 510 MOTIONS TO  
VACATE SENTENCE  
20 USC 2255  
☐ 530 HABEAS CORPUS  
☐ 535 DEATH PENALTY  
☐ 540 MANDAMUS & OTHER  
☐ 550 CIVIL RIGHTS  
☐ 555 PRISON CONDITION

## CONTRACT

- ☐ 110 INSURANCE  
☐ 120 MARINE  
☐ 130 MILLER ACT  
☐ 140 NEGOTIABLE  
INSTRUMENT  
☐ 150 RECOVERY OF  
OVERPAYMENT &  
ENFORCEMENT OF  
JUDGMENT  
☐ 151 MEDICARE ACT  
☐ 152 RECOVERY OF  
DEFAULTED  
STUDENT LOANS  
(EXCL VETERANS)  
☐ 153 RECOVERY OF  
OVERPAYMENT OF  
VETERAN'S BENEFITS  
☐ 160 STOCKHOLDERS SUITS  
☐ 180 OTHER CONTRACT  
☐ 195 CONTRACT PRODUCT  
LIABILITY  
☐ 196 FRANCHISE

## REAL PROPERTY

- ☐ 210 LAND CONDEMNATION  
☐ 220 FORECLOSURE  
☐ 230 RENT LEASE &  
EJECTMENT  
☐ 240 TORTS TO LAND  
☐ 245 TORT PRODUCT  
LIABILITY  
☐ 290 ALL OTHER  
REAL PROPERTY

Check if demanded in complaint:

☐ CHECK IF THIS IS A CLASS ACTION  
UNDER F.R.C.P. 23DO YOU CLAIM THIS CASE IS RELATED TO A CIVIL CASE NOW PENDING IN S.D.N.Y.?  
IF SO, STATE:

DEMAND \$ OTHER JUDGE Honorable Judge Rakoff DOCKET NUMBER 11-3775

Check YES only if demanded in complaint

JURY DEMAND: ☐ YES ☐ NO

NOTE: Please submit at the time of filing an explanation of why cases are deemed related.

(PLACE AN x IN ONE BOX ONLY)

**ORIGIN**

- ☒ 1 Original Proceeding ☐ 2a. Removed from State Court ☐ 3 Remanded from Appellate Court ☐ 4 Reinstated or Reopened ☐ 5 Transferred from (Specify District) ☐ 6 Multidistrict Litigation ☐ 7 Appeal to District Judge from Magistrate Judge Judgment
- ☐ 2b. Removed from State Court AND at least one party is pro se.

(PLACE AN x IN ONE BOX ONLY)

**BASIS OF JURISDICTION**

**IF DIVERSITY, INDICATE  
CITIZENSHIP BELOW.  
(28 USC 1322, 1441)**

- ☐ 1 U.S. PLAINTIFF ☐ 2 U.S. DEFENDANT ☒ 3 FEDERAL QUESTION (U.S. NOT A PARTY) ☐ 4 DIVERSITY

**CITIZENSHIP OF PRINCIPAL PARTIES (FOR DIVERSITY CASES ONLY)**

(Place an [X] in one box for Plaintiff and one box for Defendant)

	PTF	DEF		PTF	DEF		PTF	DEF
CITIZEN OF THIS STATE	[ ]	[ ]	CITIZEN OR SUBJECT OF A FOREIGN COUNTRY	[ ]	[ ]	INCORPORATED and PRINCIPAL PLACE OF BUSINESS IN ANOTHER STATE	[ ]	[ ]
CITIZEN OF ANOTHER STATE	[ ]	[ ]	INCORPORATED or PRINCIPAL PLACE OF BUSINESS IN THIS STATE	[ ]	[ ]	FOREIGN NATION	[ ]	[ ]

**PLAINTIFF(S) ADDRESS(ES) AND COUNTY(IES)**

Appellants:

Marsha Peshkin and over 800 Other Customers of Bernard L. Madoff Investment Securities LLC as Listed on Exhibit A to the Chaitman Declaration  
45 Broadway, 8th Floor, New York, New York 10006

+

**DEFENDANT(S) ADDRESS(ES) AND COUNTY(IES)**

Appellee:

Irving H. Picard, as Trustee for the Liquidation of Bernard L. Madoff Investment Securities LLC  
Baker & Hostetler, LLP  
45 Rockefeller Plaza  
New York, NY 10111

**DEFENDANT(S) ADDRESS UNKNOWN**

REPRESENTATION IS HEREBY MADE THAT, AT THIS TIME, I HAVE BEEN UNABLE, WITH REASONABLE DILIGENCE, TO ASCERTAIN THE RESIDENCE ADDRESSES OF THE FOLLOWING DEFENDANTS:

Check one: THIS ACTION SHOULD BE ASSIGNED TO: ☐ WHITE PLAINS ☒ MANHATTAN  
(DO NOT check either box if this a PRISONER PETITION.)

DATE 6/15/2011 SIGNATURE OF ATTORNEY OF RECORD

ADMITTED TO PRACTICE IN THIS DISTRICT

RECEIPT #

*Heidi Davis Chaitman* 106

[ ] NO  
[X] YES (DATE ADMITTED Mo. 12 Yr. 1978)  
Attorney Bar Code #

Magistrate Judge is to be designated by the Clerk of the Court.

Magistrate Judge \_\_\_\_\_ is so Designated.

Ruby J. Krajick, Clerk of Court by \_\_\_\_\_ Deputy Clerk, DATED \_\_\_\_\_.

UNITED STATES DISTRICT COURT (NEW YORK SOUTHERN)

Civil Cover Sheet Addendum: Explanation of Relatedness

Movants submit that this case is related to *Picard v. Greiff*, No. 11 civ. 3375 (JSR), an action pending in this Court before the Honorable Judge Rakoff and also arising out of the liquidation of Bernard L. Madoff Investment Securities LLC under the Securities Investor Protection Act. This action and the *Greiff* action present overlapping issues of non-bankruptcy law, primarily the issue of whether the Trustee's fee arrangement with Baker & Hostetler violates BLMIS customers' right to due process.